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W. Lawson
1/19/01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Grauch et al.

SERIAL NO.: 09/496,825

GROUP ART UNIT: 2711

FILED: February 1, 2000

EXAMINER: C. Grant

FOR: CUSTOMER USAGE
TRACKING SYSTEM

ATTORNEY DOCKET NO.:
BS95007/086082

Assistant Commissioner for
Patents
Washington, D.C. 20231

DECLARATION OF JOHN STEFANIK UNDER 37 CFR § 1.131(a)

1. My name is John Stefanik. I am over the age of 21 and I am competent to make this declaration based upon my personal knowledge. I understand that this declaration will be used in the United States Patent and Trademark Office ("Patent Office") in connection with the above-identified pending patent application. I also understand that this declaration is being submitted by the owner of the above-referenced application in order to show that the invention claimed in certain claims of that patent application was conceived and reduced to practice in the United States before the November 7, 1995 filing date of U.S. Patent No. 5,778,182 to Cathey et al. I understand that the Patent Office contends this patent to be relevant to at least Claims 1-7 of the above-referenced application.

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2. I am presently a manager at BellSouth.Com, which I understand is affiliated with the BellSouth entity that presently owns the above-referenced application. In order to prepare this declaration, I have reviewed: my work files relating to development of the invention, for the above-referenced patent claims 1-7 of the application, the Cathey et al. patent, § 715.07 from the Manual of Patent Examining Procedure that describes the issues of conception, diligence and reduction to practice, and 37 C.F.R. §1.31.

3. I am a co-inventor of claims 1 through 7 of the patent application identified above and inventor of the subject matter described and claimed therein. Based on at least the following facts, I believe that my co-inventors and I conceived the Invention at least as early as August 18, 1995.

(1) I worked on the subject matter of the above-identified application (“the Invention”), in the United States, on behalf of BellSouth Entertainment (“BellSouth”). In my employment with BellSouth, I was in charge of code development of the “Navigator” software and was involved with the development of the Invention and its implementation via and in the Navigator software. Additionally, I participated in weekly development meetings regarding the Invention.

(2) At least as early as August 18, 1995, my co-inventors and I at BellSouth had conceived the Invention in the United States.

(3) Exhibit 1 is draft version 1.30, dated August 18, 1995, of the design specifications of the Invention, at least some aspects of which we referred to as the "Clickstream system." A copy of this document was filed by BellSouth's counsel as a disclosure document with the U.S. Patent office on August 19, 1996. Although the disclosure document was filed on August 19, 1996, the filed document is clearly dated August 18, 1995. The document was drafted by a co-inventor, Edward Rowland "Ted" Grauch, as indicated by the initials "TG" which stand for Ted Grauch.

4. Beginning at least as early as August 18, 1995, through December 6, 1996, and based on the following facts, I and others worked diligently toward actually implementing or "reducing to practice" the Invention.

(1) Exhibit 2 comprises a release plan draft for the Navigator software, version 1.23, that I drafted, dated March 15, 1996, in which the Invention was to be incorporated into, in the United States. The purpose of the plan was to establish dates for completion of the listed tasks, which included concept design, implementation of the Invention in the Interactive Media Server (IMS) and implementation of the Invention into the Navigator software, which runs on the BellSouth Digital Broadcast System (BDBS) platform. The BDBS platform was the particular platform by which BellSouth chose to offer the Invention to the public. The invention allows interactive customer use on the BDBS to be tracked to provide knowledge about subscriber usage of the BDBS.

(2) Exhibit 3 is an updated release plan draft for the Navigator software, version 1.25 that I drafted in the United States, dated April 26, 1996. This document is an updated version of the document of Exhibit 2. The document was updated to include new completion dates for specific items including the Invention.

(3) During the period between August 15, 1995 through December 6, 1996, I participated in weekly meetings, in the United States, in which we discussed the tasks necessary to complete the development of the Navigator software and the Invention, including the integration of the Invention into the Navigator software for release onto the BDBS platform.

(4) Exhibit 4 is a test summary report for the Navigator 3.2 software that comprised one way of implementing the invention. The testing results, obtained from a confidential test performed in the United States, completed on December 1, 1996, proved that the Invention had passed quality assurance tests and was ready for release in the market.

(5) Exhibit 5 is a document that I participated in drafting, showing the product release history, in the United States, of BDBS including the Invention. The Invention was first introduced in the Navigator release on November 21, 1996. The Navigator version then deployed was soon thereafter removed in favor of Navigator version 3.22, which successfully implemented the Invention. This version 3.22 was released and deployed as part of the trial on December 6, 1996.

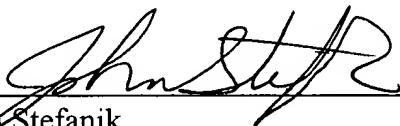
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5. Exhibits attached hereto are photocopies of original documents.

6. I believe that the attached exhibits show that I and the other inventors had conceived the Invention at least as early as August 15, 1995, and, from that date to December 6, 1996, the exhibits show that I and others diligently worked on actually reducing to practice the subject matter of claims 1-7. One version of the Invention was actually reduced to practice at least as early as December 6, 1996 with the deployment of Navigator version 3.22.

7. As the person signing below, I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, or any patent issued thereon.

Dated: 6/6/00


Name: John Stefanik

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